



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SPECIAL SEVENTH DIVISION

MINUTES of the proceedings held on 26 June 2018.

Present:

MA. THERESA GOMEZ-ESTOESTA ----- Chairperson  
ZALDY V. TRESPESES ----- Member  
BAYANI H. JACINTO\* ----- Member

The following resolution was adopted:

**SB-17-CRM-1671 – PEOPLE v. PETER PAUL JED COSMIANO  
FALCON, et al.**

This resolves the *Verified Omnibus Motion a. for Quashal of Information Against Teofilo C Maymay, Aludia B. De Castro and Carmelo L. Rebosura; and b. For Reinvestigation* dated 23 May 2018<sup>1</sup> filed by accused TEOFILO C MAYMAY, ALUDIA B. DE CASTRO, and CARMELO L. REBOSURA (accused-movants).

Accused-movants claim that they were indicted on account of their alleged participation in the execution and approval of the 21 May 2007 Bids and Awards Committee (BAC) Resolution. However, they have evidence to prove that they did not participate, much less sign the said BAC Resolution, as shown by several documents attached to their *Motion*.

In particular, accused-movant Maymay alleges that he was on sick leave from 21-31 May 2007, and thus could not have signed the BAC Resolution. Accused-movant De Castro, on her part, alleges that she attended a seminar from 22 to 24 May 2007 in Carrascal, Surigao del Sur, for which purpose she left the Municipality of Lingig on the 21<sup>st</sup>. Accused-movant Rebosura, on the other hand, alleges that he did not attend any meeting on 21 May 2007 since there was in fact no meeting held on that day due to the lack of quorum caused by accused De Castro and Maymay's absence.

Thus, accused-movants pray that the Court quash the Information against them.

\* Per Administrative Order No. 284-2017 dated 18 August 2017.

<sup>1</sup> Records, Vol. II, pp. 220-232.

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At the same time, accused-movants pray for a reinvestigation of their case to allow them to submit evidence of their lack of participation in the execution and signing of the 21 May 2007 BAC Resolution, which the Court shall consider as an alternative prayer.

In its *Comment/Opposition*,<sup>2</sup> the prosecution argues that the grounds invoked by accused-movants are not among the grounds to quash an Information under the Rules of Court. Secondly, the accused-movants raise evidentiary matters which are better threshed out during a full-blown hearing. Lastly, it claims that the Office of the Ombudsman already found probable cause to hold the accused-movants for trial and that Courts, as a rule, do not interfere with such finding.

The Omnibus Motion must be dismissed outright.

Accused-movants' Motion essentially challenges the finding of probable cause made by the Office of the Ombudsman by submitting documents which have not been previously submitted at the preliminary investigation stage. However, *People v. Odtuhan*<sup>3</sup> instructs that the fundamental test in determining the sufficiency of the material averments in an Information is whether the facts alleged therein, which are hypothetically admitted, would establish the essential elements of the crime defined by law; evidence *aliunde* are not to be considered therein:

As defined in *Antone*, "a motion to quash information is the mode by which an accused assails the validity of a criminal complaint or information filed against him for insufficiency on its face in point of law, or for defects which are apparent in the face of the information." It is a hypothetical admission of the facts alleged in the information. The fundamental test in determining the sufficiency of the material averments in an Information is whether or not the facts alleged therein, which are hypothetically admitted, would establish the essential elements of the crime defined by law. Evidence *aliunde* or matters extrinsic of the information are not to be considered.<sup>4</sup> To be sure, a motion to quash should be based on a defect in the information which is evident on its fact.<sup>5</sup> Thus, if the defect can be cured by amendment or if it is based on the ground that the facts charged do not constitute an offense, the prosecution is given by the court the opportunity to correct the defect by amendment.<sup>6</sup> If the motion to quash is sustained, the court may order that another complaint or information be

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<sup>2</sup> *Comment/Opposition (Re: Verified Omnibus Motion of Accused Teofilo C. Maymay, Aludia B. De Castro, and Carmelo L. Rebosura)* dated 18 June 2018.

<sup>3</sup> G.R. No. 191566, 17 July 2013.

<sup>4</sup> *People v. Balao*, G.R. No. 176819, 26 January 2011; *Go v. The Fifth Division, Sandiganbayan*, G.R. No. 172602, 13 April 2007.

<sup>5</sup> *Santos v. People*, G.R. No. 173176, 26 August 2008.

<sup>6</sup> Sec. 4, Rule 117, Rules of Court.

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filed<sup>7</sup> except when the information is quashed on the ground of extinction of criminal liability or double jeopardy.<sup>8</sup>

Thus, accused-movants attempt to submit evidence before the Court *sans* the benefit of trial as basis for motion to quash cannot be countenanced. For one, the existence, authenticity, and probative value of the said documents can only be properly appreciated during actual trial, where it can be presented as evidence of their innocence. Secondly, and more importantly, the grounds invoked by the accused-movants are not proper in a motion to quash.

Moreover, under subheading III(2)(b) of A.M. No. 15-06-10-SC<sup>9</sup> the following are prohibited motions that are to be dismissed outright:

- (i) Motions to quash that cite grounds not among those enumerated under Section 3, Rule 117 of the Rules of Court;<sup>10</sup>
- (ii) Motions for judicial determination of probable cause;<sup>11</sup> and
- (iii) Motion for reinvestigation.<sup>12</sup>

In light of the foregoing, the Court has no recourse but to deny accused-movants' Motion. They will have the opportunity to present their evidence at the trial of this case.

**WHEREFORE**, premises considered, accused TEOFILO C MAYMAY, ALUDIA B. DE CASTRO, and CARMELO L. REBOSURA'S *Verified Omnibus Motion a. for Quashal of Information Against Teofilo C Maymay, Aludia B. De Castro and Carmelo L. Rebosura; and b. For Reinvestigation* dated 23 May 2018 is **DENIED** for lack of merit.

Let the arraignment and pre-trial of said accused proceed, as scheduled, on 24 July 2018 at 8:30 a.m. at the Fourth Division Courtroom.

**SO ORDERED.**

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<sup>7</sup> The Revised Rules of Criminal Procedure, Rule 117, Section 5.

<sup>8</sup> The Revised Rules of Criminal Procedure, Rule 117, Section 6.

<sup>9</sup> Revised Guidelines for Continuous Trial of Criminal Cases (Revised Guidelines).

<sup>10</sup> Subheading III(2)(b)(iv), A.M. No. 15-06-10-SC.

<sup>11</sup> Subheading III(2)(b)(i), A.M. No. 15-06-10-SC.

<sup>12</sup> Subheading III(2)(b)(iii), A.M. No. 15-06-10-SC. The said subsection reads: "iii. Motion for reinvestigation of the prosecutor recommending the filing of information once the information has been filed before the court (1) if the motion is filled without prior leave of court; (2) when preliminary investigation is not required under Sec. 8, Rule 112; and (3) when the regular preliminary investigation is required and has been actually conducted, and the grounds relied upon in the motion are not meritorious, such as issued of credibility, admissibility of evidence, innocence of the accused, or lack of due process when the accused was actually notified, among others."

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RESOLUTION


*People of the Philippines v. Peter Paul C. Falcon, et al.*

SB-17-CRM-1671

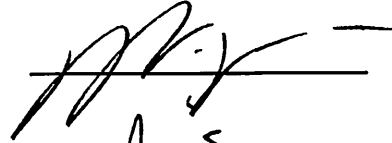
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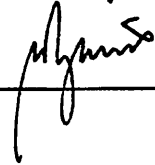
**ESTOESTA, J., Chairperson**

  
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**TRESPESES, J.**

  
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**JACINTO, J.**

  
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